

Thomas Jefferson to Joseph C. Cabell, January 31, 1814 , from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO JOSEPH C. CABELL J. MSS.

Monticello, January 31, 1814.

Dear Sir, —Your favor of the 23d is received. Say had come to hand safely. But I regretted having asked the return of him; for I did not find in him one new idea upon the subject I had been contemplating; nothing more than a succinct, judicious digest of the tedious pages of Smith.

You ask my opinion on the question, whether the States can add any qualifications to those which the constitution has prescribed for their members of Congress? It is a question I had never before reflected on; yet had taken up an off-hand opinion, agreeing with your first, that they could not; that to add new qualifications to those of the constitution, would be as much an alteration as to detract from them. And so I think the House of Representatives of Congress decided in some case; I believe that of a member from Baltimore. But your letter having induced me to look into the constitution, and to consider the question a little, I am again in your predicament, of doubting the correctness of my first opinion. Had the constitution been silent, nobody can doubt but that the right to prescribe all the qualifications and disqualifications of those they would send to represent them, would have belonged to the State. So also the constitution might have prescribed the whole, and excluded all others. It seems to have preferred the middle way. It has exercised the power in part, by declaring some disqualifications, to wit, those of not being twenty-five years of age, of not having been a citizen seven years, and of not

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being an inhabitant of the State at the time of election. But it does not declare, itself, that the member shall not be a lunatic, a pauper, a convict of treason, of murder, of felony, or other infamous crime, or a non-resident of his district; nor does it prohibit to the State the power of declaring these, or any other disqualifications which its particular circumstances may call for; and these may be different in different States. Of course, then, by the tenth amendment, the power is reserved to the State. If, wherever the constitution assumes a single power out of many which belong to the

same subject, we should consider it as assuming the whole, it would vest the General Government with a mass of powers never contemplated. On the contrary, the assumption of particular powers seems an exclusion of all not assumed. This reasoning appears to me to be sound; but, on so recent a change of view, caution requires us not to be too confident, and that we admit this to be one of the doubtful questions on which honest men may differ with the purest motives; and the more readily, as we find we have differed from ourselves on it.

I have always thought where the line of demarcation between the powers of the General and the State governments was doubtfully or indistinctly drawn, it would be prudent and praiseworthy in both parties, never to approach it but under the most urgent necessity. Is the necessity now urgent, to declare that no non-resident of his district shall be eligible as a member of Congress? It seems to me that, in practice, the partialities of the people are a sufficient security against such an election; and that if, in any instance, they should ever choose a non-resident, it must be one of such eminent merit and qualifications, as would make it a good, rather than an evil; and that, in any event, the examples will be so rare, as never to amount to a serious evil. If the case then be neither dear nor urgent, would it not be better to let it lie undisturbed? Perhaps its decision may never be called for. But if it be indispensable to establish this disqualification now, would it not look better to declare such others, at the same time, as may be proper? I frankly confide to yourself these opinions, or rather no-opinions, of mine; but would not wish to have them go any farther. I want to be quiet; and although some circumstances now and then, excite me to notice them, I feel

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safe, and happier in leaving events to those whose turn it is to take care of them; and, in general, to let it be understood, that I meddle little or not at all with public affairs. There are two subjects, indeed, which I shall claim a right to further as long as I breathe, the public education, and the sub-division of counties into wards. I consider the continuance of republican government as absolutely hanging on these two hooks. Of the first, you will, I am sure, be an advocate, as having already reflected on it, and of the last, when you shall have reflected. Ever affectionately yours.